HIGH COURT OF CHHATTISGARH AT BILASPUR

M.A. No. 1087 of 2005

Appellants	1.	Sarojani Bai, widow of Radhelal Yadav, aged about 33 years.
	2.	Chaitram, S/o Late Shri Radhelal Yadav, aged about 13 years.
	3.	Ku. Ranjita, D/o Late Shri Radhelal Yadav, aged about 11 years.
	4.	Ku. Madhu, D/o Late Shri Radhe Lal YAdav, aged about 3 years. Appellants No. 2 to 4 are minor, through their guardian mother Smt. Sarojani Bai, widow of Late Shri Radhe Lal,R/o Village- Padampur, Thana- Jarhagaon, Tahsil- Mungeli, District- Bilaspur (C.G.).
	Versus	
Respondents	1.	Ashok Kumar, S/o Jawahar Singh Goand, aged about 35 years, Occupation- Vehicle Driver, Truck No. 10-ZB-0218, R/o Tivrta, Tahsil-Katghora, District- Korba (C.G.).
	2.	Dinesh Singh, S/o H.M.Singh, aged about 46 years, Vehicle owner, Truck No. C.G. -10 –ZB 0218, R/o Yadunandan Nagar, Thana- Civil Lines, Bilaspur, District- Bilaspur (C.G.).
	3.	The New India Insurance Company Ltd. Insurance Company of Truck No. CG-10 ZB-0218.
	4.	Smt. Anjali Phanse, W/o G.R.Phanse, aged about 49 years, Vehicle owner Commander Jeep No. CG 10 BB/1269, R/o Chandani Chowk, Kududand, Bilaspur (C.G.).
	5.	United India Insurance Company Ltd. Insurance Company of Jeep No. C.G. 10 BB/1269, Rajendra Nagar Chowk, Bilaspur.

DB: Hon'ble Shri Justice S. R. Nayak, C.J.
& Hon'ble Shri Justice Satish K. Agnihotri, J.

Mr. Vimalesh Bajpayee, Advocate, for the appellants.

Mr. Prashant Jayaswal, Senior Advocate with Shri Ali Asgar, Advocate for the Respondents No.3.

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(91)

ORAL ORDER

(15th December 2005)

The following order of the Court was passed by **S. R. Nayak, C.J.**

1. In this appeal preferred by the dependents of the deceased seeking more compensation, learned counsel for the appellants would contend that though the M.A.C.T. has taken the age of the deceased as 50 years on the basis of the postmortem report, it has wrongly applied multiplier 11 instead of multiplier 13. It was next contended that M.A.C.T. has not awarded any compensation towards conventional heads i.e. 'loss to the estate' and 'loss of love and affection'. Learned counsel further contented that what has been awarded towards consortium is on lower side. We found merit in the contentions of learned counsel for the appellants.

2. If the age of the deceased was 50 years on the date of accident, in terms of the second Schedule of the Motor Vehicles Act, 1988 the appropriate multiplier is 13 and not 11. If we apply multiplier 13, total loss of dependency comes to Rs. 3,12,000/-(2000x12x13). Therefore, we award sum of Rs. 3,12,000/- towards loss of dependency as against Rs. 2,64,000/- awarded by the M.A.C.T.

3. Loss to the estate is undeniably a head of compensation which is required to be awarded in a death case. Therefore, we award Rs. 20,000/- towards 'loss to the estate' and Rs. 20,000/- towards loss of love and affection. We also award Rs. 20,000/- towards 'loss of consortium' as against Rs. 5000/- awarded by the Tribunal.

4. In the result and for the foregoing reasons, we allow the appeal in part and in substitution of the impugned award, we award total sum of Rs. 3,74,000/-under the following heads:-

Loss of dependency	Rs.	3,12,000=00
Loss to the estate	Rs.	20,000=00
Loss of love and affection	Rs.	20,000=00
Loss of consortium	Rs.	20,000=00
Funeral expenses	Rs.	2,000=00
Total	Rs.	3,74,000=00

with interest as awarded by the M.A.C.T.

5. The Insurance Company shall deposit the balance compensation within six weeks from today and on such deposit being made, the M.A.C.T. will disburse/invest in the same proportions as it has specified in the impugned award. In the facts and circumstances of the case, the parties shall bear their respective costs.

Sd/-
Chief Justice

Sd/-
SATISH K. AGNIHOTRI
Judge

Thakur